

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DOMINIC OVELLA

**PLAINTIFF/
COUNTER-DEFENDANT**

v.

CAUSE NO. 1:10CV285 LG-RHW

**B&C CONSTRUCTION AND
EQUIPMENT, LLC, COLIE
DONALDSON, BETH ANNE
DONALDSON, ALLEN M.
YOUNG, and YOUNG ENGINEERING
SERVICES**

**DEFENDANTS/
COUNTER-CLAIMANTS/
THIRD-PARTY PLAINTIFFS**

v.

KATHY OVELLA

THIRD-PARTY DEFENDANT

**ORDER DENYING MOTION TO CONSOLIDATE
AND MOTION TO CONTINUE TRIAL DATE**

BEFORE THE COURT are: 1) the Motion to Consolidate [359] filed by Defendants/Counter-Claimants/Third-Party Plaintiffs, Colie Donaldson, B&C Construction and Equipment, LLC, Beth Anne Donaldson and Coby Donaldson; and 2) the Motion to Continue Trial Date [360] filed by Plaintiff Dominic J. Ovella and Third-Party Defendant/Counter-Plaintiff Kathleen H. Ovella.

The B&C Construction parties request that this case be consolidated with a case they filed in this court on January 12, 2012; Cause No. 1:12cv7-HSO-RHW. According to B&C, the claims in the new lawsuit are almost identical to the counter and third-party claims they made in this suit. The only difference is that B&C Construction has attached a newly-obtained Residential Builder License to the new complaint. The Ovellas object to consolidation for the obvious reason that this case

is ready for trial, whereas the new case is in the very earliest stages. Consideration of the issues presented by the new case would significantly impact the progress of this case. Anticipating that the cases will be consolidated, the Ovellas request a continuance of the trial date. They argue they must be given an opportunity to conduct discovery and seek dismissal of the new claims on the grounds of statute of limitations and res judicata.

The issues have been fully briefed on an abbreviated schedule due to the impending trial date. After due consideration of the arguments of counsel and the record in this case, the Court finds that both motions should be denied. The interests of economy and efficiency will be best served by allowing this case to proceed to trial as scheduled.

IT IS THEREFORE ORDERED AND ADJUDGED that the Motion to Consolidate [359] filed by Defendants/Counter-Claimants/Third-Party Plaintiffs, Colie Donaldson, B&C Construction and Equipment, LLC, Beth Anne Donaldson and Coby Donaldson, is **DENIED**.

IT IS FURTHER ORDERED AND ADJUDGED that the Motion to Continue Trial Date [360] filed by Plaintiff Dominic J. Ovella and Third-Party Defendant/Counter-Plaintiff Kathleen H. Ovella, is **DENIED**.

SO ORDERED AND ADJUDGED this the 25th day of January 2012.

s/ Louis Guirola, Jr.

Louis Guirola, Jr.
Chief United States District Judge